

E-filed: March 2, 2010

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6
7 **UNITED STATES BANKRUPTCY COURT**
DISTRICT OF NEVADA

8
9 In re:

10 CAROLYN J. JOHNSON and
MICHAEL JOHNSON,

11 Debtor(s).

BK-S-09-28339-LBR

Chapter 13

Hearing Date: **April 8, 2010**

Hearing Time: **2:30 p.m.**

Trustee: Kathleen Leavitt


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14 **DEBTORS' MOTION TO CONVERT CHAPTER 13 CASE TO A CASE**
15 **UNDER CHAPTER 7 OF TITLE 11 OF THE UNITED STATES CODE**

16 **COMES NOW** Debtors, by and through counsel Marjorie A. Guymon, Esq. of the law firm
17 GOLDSMITH & GUYMON, P.C., and hereby file this Motion to Convert Chapter 13 Case to a Case
18 Under Chapter 7.

19 This Motion is supported by the attached Memorandum of Points and Authorities, all pleadings
20 and papers on file herein and the oral argument of counsel upon hearing.

21 DATED this 2 day of March, 2010.

22 **GOLDSMITH & GUYMON, P.C.**

23
24 
MARJORIE A. GUYMON, ESQ.
Nevada Bar No. 4983
2055 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Debtors

MEMORANDUM OF POINTS AND AUTHORITIES

I.

FACTS

1. The Debtors filed for Chapter 7 relief on September 30, 2009. The United States Trustee's office appeared and objected alleging that there was abuse and that the Debtors did not qualify for Chapter 7 relief. Upon Stipulation and Order, the case was converted to a Chapter 13 case pursuant to 11 U.S.C. §706(a) on December 4, 2009.
2. Debtors have since experienced a significant reduction in pay. Specifically, Mrs. Johnson's wage was reduced to \$2,099.84 every two weeks, a reduction of approximately \$925.00 per month.
3. Debtors can no longer afford to make the \$465.00 plan payment.
4. Debtors have filed amended Schedules I and J reflecting their current income and monthly living expenses. A copy of these amended documents are attached hereto as Exhibits "A".
5. Debtors have also provided their declaration setting forth the facts contained herein, which is attached hereto as Exhibit "B".

II.

STATEMENT OF LAW

Pursuant to 11 U.S.C. §1307(a), a case may be converted from Chapter 13 of Title 11 of the United States Code to a case under Chapter 7 of Title 11 of the United States Code. Pursuant to 11 U.S.C. §1307(g) "a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such a chapter."

The Debtors qualify for relief under Chapter 7 of Title 11 of the United States Code. The Debtors' monthly deficit is due to the fact that Mrs. Johnson has experienced a reduction in pay since the bankruptcy filing. Based upon this reduction in income, they do not have the disposable income to make a chapter 13 plan payment.

The Debtors converted the Chapter 13 case in good faith, but due to their unfortunate circumstances, the Debtors will not be able to confirm a Chapter 13 Plan or afford a plan payment. As such, the Debtors request that this case be converted to a case under Chapter 7.


IV.

CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court grant this instant Motion to Convert Chapter 13 Case to a Case Under Chapter 7.

DATED this 2 day of March, 2010.

GOLDSMITH & GUYMON, P.C.



MARJORIE A. GUYMON, ESQ.
Nevada Bar No. 4983
2055 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Debtors

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EXHIBIT "A"
AMENDED SCHEDULES I AND J

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Chapter 13

11 Debtor(s).

Trustee: Kathleen Leavitt

12
 13 **AMENDMENT COVER SHEET**

14 The following items have been amended in the above named bankruptcy proceeding (check all applicable
 15 boxes).

- 16 ☐ Voluntary Petition (must be signed by debtor *and* attorney for debtor per Fed.R. Bankr.P.9011)
 17 ☐ Summary of Schedules
☐ Statistical Summary of Certain Liabilities
☐ Schedule A - Real Property
☐ Schedule B - Personal Property
 18 ☐ Schedule C - Property Claimed as Exempt
☐ Schedule D, E, or F and/or Matrix, and/or List of Creditors or Equity Holders
 19 ☐ Add/delete creditor(s), change amount of classification of debt -\$26.00 fee required.
☐ Add/change address of already listed creditor - No fee.
 20 ☐ Schedule G - Schedule of Executory Contracts & Expired Leases
☐ Schedule H - Codebtors
 21 ☒ Schedule I - Current Income of Individual Debtor(s)
☒ Schedule J - Current Expenditures of Individual Debtor(s)
 22 ☐ Declaration Concerning Debtor's Schedules
☐ Statement of Financial Affairs and/or Declaration
 23 ☐ Statement of Intentions (Ch 7 only)
☐ Disclosure of Compensation of Attorney for Debtor
 24 ☐ Statement of Current Monthly Income and Means Test Calculation
☐ Certification of Credit Counseling
 25 ☐ Other:

26 Amendment of Debtor(s) Social Security Number requires the filer to follow the instruction provided by
 27 the Office of the U.S. Trustee, see link to the U.S. Trustee's website: www.nvb.uscourts.gov

DECLARATION OF DEBTOR

I (We) declare under penalty of perjury that the information set forth in the amendment(s) attached hereto is (are) true and correct to the best of my (our) information and belief.

Debtor's Signature

Joint Debtor's Signature

Date:

2-24/2010

Date:

2-24-10

2/22/10 4:11PM

B6I (Official Form 6I) (12/07)

In re **Michael R. Johnson**
Carolyn J. JohnsonCase No. **09-28339**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): Daughter	AGE(S): 19
Employment:	DEBTOR	SPOUSE
Occupation	News Artist	Graphic Artist
Name of Employer	Las Vegas Review Journal	Eagle Promotions
How long employed	24	2.5
Address of Employer	1111 W. Bonanza Attention: Bankruptcy Dept. Las Vegas, NV 89125	4575 W. Post Road Las Vegas, NV 89118

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify):

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify):

12. Pension or retirement income

13. Other monthly income

(Specify):

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

	DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ <u>4,888.00</u>	\$ <u>4,549.65</u>
2. Estimate monthly overtime	\$ <u>0.00</u>	\$ <u>0.00</u>
3. SUBTOTAL	\$ <u>4,888.00</u>	\$ <u>4,549.65</u>
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ <u>735.11</u>	\$ <u>602.07</u>
b. Insurance	\$ <u>722.11</u>	\$ <u>129.16</u>
c. Union dues	\$ <u>0.00</u>	\$ <u>0.00</u>
d. Other (Specify):	\$ <u>0.00</u>	\$ <u>0.00</u>
	\$ <u>0.00</u>	\$ <u>0.00</u>
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ <u>1,457.22</u>	\$ <u>731.23</u>
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ <u>3,430.78</u>	\$ <u>3,818.42</u>
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ <u>0.00</u>	\$ <u>0.00</u>
8. Income from real property	\$ <u>0.00</u>	\$ <u>0.00</u>
9. Interest and dividends	\$ <u>0.00</u>	\$ <u>0.00</u>
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ <u>0.00</u>	\$ <u>0.00</u>
11. Social security or government assistance	\$ <u>0.00</u>	\$ <u>0.00</u>
(Specify):	\$ <u>0.00</u>	\$ <u>0.00</u>
	\$ <u>0.00</u>	\$ <u>0.00</u>
12. Pension or retirement income	\$ <u>0.00</u>	\$ <u>0.00</u>
13. Other monthly income	\$ <u>0.00</u>	\$ <u>0.00</u>
(Specify):	\$ <u>0.00</u>	\$ <u>0.00</u>
	\$ <u>0.00</u>	\$ <u>0.00</u>
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ <u>0.00</u>	\$ <u>0.00</u>
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ <u>3,430.78</u>	\$ <u>3,818.42</u>
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)	\$ <u>7,249.20</u>	

B6J (Official Form 6J) (12/07)

In re **Michael R. Johnson**
Carolyn J. JohnsonCase No. **09-28339**

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>2,860.10</u>
a. Are real estate taxes included?	Yes <u> </u> No <u>X</u>	
b. Is property insurance included?	Yes <u> </u> No <u>X</u>	
2. Utilities:		
a. Electricity and heating fuel	\$	<u>400.00</u>
b. Water and sewer	\$	<u>98.00</u>
c. Telephone	\$	<u>350.00</u>
d. Other <u>See Detailed Expense Attachment</u>	\$	<u>120.00</u>
3. Home maintenance (repairs and upkeep)	\$	<u>300.00</u>
4. Food	\$	<u>800.00</u>
5. Clothing	\$	<u>100.00</u>
6. Laundry and dry cleaning	\$	<u>30.00</u>
7. Medical and dental expenses	\$	<u>350.00</u>
8. Transportation (not including car payments)	\$	<u>450.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>200.00</u>
10. Charitable contributions	\$	<u>100.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	<u>90.00</u>
b. Life	\$	<u>93.74</u>
c. Health	\$	<u>0.00</u>
d. Auto	\$	<u>455.00</u>
e. Other <u>Add life insurance</u>	\$	<u>34.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) <u>Property Taxes</u>	\$	<u>235.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	<u>238.62</u>
b. Other <u>2nd mortgage payment</u>	\$	<u>259.09</u>
c. Other <u> </u>	\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others	\$	<u>400.00</u>
15. Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
17. Other <u>Personal hygiene</u>	\$	<u>30.00</u>
Other <u>Pet Supplies/Vet Bills</u>	\$	<u>150.00</u>
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	<u>8,143.55</u>
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I	\$	<u>7,249.20</u>
b. Average monthly expenses from Line 18 above	\$	<u>8,143.55</u>
c. Monthly net income (a. minus b.)	\$	<u>-894.35</u>

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B6J (Official Form 6J) (12/07)

In re **Michael R. Johnson**
Carolyn J. JohnsonCase No. **09-28339**

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**Detailed Expense Attachment****Other Utility Expenditures:**

Cable	\$	50.00
Garbage	\$	10.00
Pest Control	\$	30.00
Alarm	\$	30.00
Total Other Utility Expenditures	\$	120.00

EXHIBIT "B"
DECLARATION

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9 In re:

10 CAROLYN J. JOHNSON and
MICHAEL JOHNSON,

11 Debtor(s).

BK-S-09-28339-LBR

Chapter 13

Trustee: Kathleen Leavitt

12
13 **DECLARATION IN SUPPORT OF CONVERT CHAPTER 13 CASE TO A CASE**
UNDER CHAPTER 7 OF TITLE 11 OF THE UNITED STATES CODE

14
15 STATE OF NEVADA

16 COUNTY OF CLARK

17 **COMES NOW** the Debtors, Carolyn J. Johnson and Michael Johnson, having been duly sworn
18 upon their oath and under penalties of perjury states as follows:

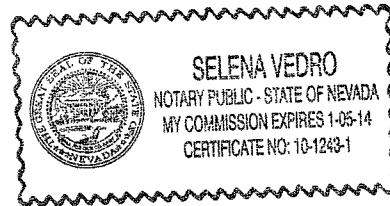
- 19 1. We are the Debtors in the above referenced case. We have personal knowledge of the facts
20 asserted in the underlying Motion and as set forth in this Declaration and are competent to testify
21 to the same if called upon to do so.
- 22 2. Since converting our case to one under Chapter 13, we have experienced a significant reduction
23 in pay. Specifically, Carolyn's wage was reduced to \$2,099.84 every two weeks, a reduction of
24 approximately \$925.00 per month.
- 25 3. We cannot afford to make the \$465.00 plan payment.
- 26 4. We have caused to be filed amended Schedules I and J reflecting current income and monthly
27 living expenses.

1 DATED this 24th Feb day of March, 2010.


2
3 
4 CAROLYN J. JOHNSON

5 SUBSCRIBED AND SWORN TO BEFORE
6 ME, A NOTARY PUBLIC, ON THE
7 24 DAY OF Feb, 2010.

8 
9 NOTARY PUBLIC

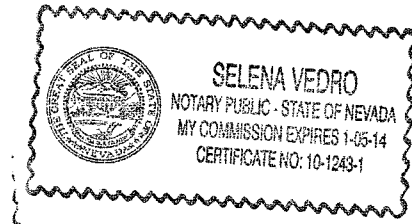


10 DATED this 24th Feb day of March, 2010.

11
12 
13 MICHAEL JOHNSON

14 SUBSCRIBED AND SWORN TO BEFORE
15 ME, A NOTARY PUBLIC, ON THE
16 24th DAY OF Feb, 2010.

17 
18 NOTARY PUBLIC



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